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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/649,445 | 08/26/2003 | Ellis A. Pinder | CM06341J | 5762 |

7590 05/27/2005

Barbara R. Doutre
Motorola, Inc.
Law Department
8000 West Sunrise Boulevard
Fort Lauderdale, FL 33322

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| EXAMINER |
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GARY, ERIKA A

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| ART UNIT | PAPER NUMBER |
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2681

DATE MAILED: 05/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/649,445

Applicant(s)

PINDER, ELLIS A.

Examiner

Erika A. Gary

Art Unit

2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 6, 8-12, and 14 rejected under 35 U.S.C. 102(b) as being anticipated by Vapaakoski et al., US Patent Number 6,164,547 (hereinafter Vapaakoski).

Regarding claims 1, 2, 6, 12, and 14, Vapaakoski discloses an intrinsically safe operating system (and method) comprising: a communication device having communication device type certification parameters stored therein; a peripheral device that attaches to the communication device, the peripheral device having peripheral device type certification parameters stored therein; and the communication device restricting the operation of the peripheral device when the communication device type certification parameters and peripheral device type certification parameters are incompatible [col. 1: line 55 – col. 2: line 29].

Regarding claim 3, Vapaakoski discloses the communication device is a handheld communication device [col. 1: lines 32-43].

Regarding claim 4, Vapaakoski discloses the peripheral device comprises an accessory [col. 1: lines 32-43].

Regarding claim 8, Vapaakoski discloses restricting the operation of the peripheral in response to the step of comparing [fig. 1: ref. 112].

Regarding claims 9 –11, Vapaakoski discloses indicating incompatibility comprises sending a visual, audible or physical alert to the user [col. 3: lines 17-19].

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5, 7, 13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vapaakoski.

Regarding claims 5, 13, and 15, Vapaakoski disclose the peripheral device includes accessories [col. 1: lines 32-43]. What Vapaakoski does not specifically disclose is that the peripheral device includes a battery. However, the Examiner takes Official Notice that it is well known in the art to attach a battery to a communication device in order to power the device. Further it is obvious that the battery would need to be compatible with the communication device in order for it to work.

Regarding claim 7, Vapaakoski discloses restricting the operation of the peripheral in response to the step of comparing [fig. 1: ref. 112], but does not specifically disclose restricting the operation of the radio in response to the step of comparing. At the time of the invention, it would have been obvious to one of ordinary skill in the art to also restrict the operation of the radio if it is determined that the operation of the radio would not be safe.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Takahara et al., US Patent Number 5,450,613 disclose mobile communication equipment which detects and notifies when it is moved into or out of a service area.

Hutchison et al., US Patent Number 6,725,061, disclose a system and method for the automatic identification of accessories coupled to a wireless communication device.

Vuori, US Patent Application Publication Number 2004/0192274, discloses fetching application and driver for extension device from network.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika A. Gary whose telephone number is 571-272-7841. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2681

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EAG
May 23, 2005


ERIKA A. GARY
PRIMARY EXAMINER